

Serial No. 10/690,731

Amend. in Resp. to Off Act. of July 25, 2005

UTILITY PATENT

B&D No. TN1488A

REMARKS

Applicants have amended Claim 25. Claims 25-29 therefore are pending in the present application.

The Examiner rejected Claims 25-29 under 35 USC § 112, second paragraph, as being indefinite. In particular, the Examiner objected to the defined as to the range of angles between the motor longitudinal axis and the miter axis. In particular, the Examiner alleges that the range does not define whether the range of angles includes an angle at 0 or 180 degrees.

In response, Applicants have amended Claim 25 to explicitly recite that "where the motor longitudinal axis is at a zero degree angle when the motor extends away from the table, and the motor does not extend towards the table when the motor longitudinal axis is parallel to the miter axis," which removes the Examiner's objection. Persons skilled in the art will recognize that such amendment only adds what was implicit in the claim, and that such amendment is not intended as a disclaimer of subject matter or a prosecution history estoppel. Furthermore, such amendment is only in response to the present § 112 rejection and not in response to any other rejections or objections.

The Examiner rejected Claims 25-29 under 35 USC § 102(b) as being anticipated by US Patent No. 6,543,323 ("Hayashizaki"). This rejection is respectfully traversed.

Applicant notes that the publication date of Hayashizaki is April 8, 2003. The present application was filed on October 22, 2003. Accordingly, Hayashizaki was not patented or

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described in a printed publication in this country more than one year prior to the date of the present application.

Furthermore, the present application is a continuation of US Serial No. 10/056,212, filed on January 23, 2002, which derives priority from US Serial No. 60/267,371, which was filed on February 8, 2001. Accordingly, the earliest filing date of the present application is February 8, 2001, which is well before the publication and filing date of Hayashizaki. Thus, Hayashizaki cannot constitute § 102(b) prior art against the present application. Therefore, Hayashizaki cannot anticipate Claims 25-29.

Applicants believe the application to be in condition for formal allowance. Accordingly, allowance of Claims 25-29 is respectfully requested.

No fee is believed due. Nevertheless, the Commissioner is authorized to charge payment of any fees due in processing this amendment, or credit any overpayment to Deposit Account No. 02-2548.

Respectfully submitted,



Adan Ayala, Reg. No. 38,373
Attorney for Applicants
(410) 716-2368